

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION**

APPEAL FROM ORDER NO. 521 OF 2006.

Shri Chandrakant M. Shirole & ors.. Appellants.

V/s.

M/s Sai Erectors.

.. Respondents.

Shri A.V. Anturkar for the appellants.

Shri Y.S. jahagirdar, Senior Advocate with P.S.

Dani with C.D. Konale for for respondent No.1.

Shri R.G. Ketkar for respondent No.2.

CORAM : A.M. KHANWILKAR, J.

DATED : 3.8.2006.

P.C. :

. The preliminary objection is taken by the Counsel for the respondents about maintainability of the appeal. According to the Counsel for respondents, having regard to the frame of the suit and claim involved, appeal under Order 43 of the C.P.C. can be resorted to before the District Court, against the impugned decision, since it is an appellate Court. Counsel for the appellants fairly accepts this position. In the circumstances, appeal is dismissed with liberty to take recourse to the appropriate remedy as may be advised and permissible in law, which will be decided on its own merits.

(A.M. KHANWILKAR,J.)